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APR 27 2007

Ser. No. 09/467,646
Art Unit: 3628
Atty. Ref. Newmrkt-P4-99

II. Remarks

For the record it is noted that the Notice of Abandonment issued on November 16, 2006, was issued in error because the matter was still pending before the Board, as per the Request for Rehearing and Decision thereon. The Examiner was informed of the error and indicated in a telephone message that the Notice of Abandonment would be withdrawn.

In response to the Board Rehearing and Decision of February 28, 2007, the Examiner is requested to consider the claims below, in view of the following remarks.

The Board decision issued a new grounds rejection as to claim 1, pursuant to 35 U.S.C. Sec. 103. The Decision contends that claim 1 was obvious in view of U.S. Patent No. 6,338,047 (Wallman '047), and the Rehearing Decision notes, at page 5:

Although such a custom set for individual customers is disclosed as a preferred embodiment (Specification 7), limitations from the specification are not imported into the claims....

If prosecution continues, and the claims are amended to incorporate a limitation that the fund contain custom sets of investment funds made especially for individual customers, the examiner should consider whether such a construct differs sufficiently from the conventional industry conception of an investment fund that patentability over the conventional set of investment portfolio's held for investors by brokerages in the brokerage's street name becomes a significant novelty and obviousness issue.

Claim 1 follows the Rehearing Decision in so far as requiring:

a first custom set of investments for a first investor to be held within a fund

(and)

a second custom set of investments for a second investor to be held within the fund

and further incorporates from dependent claim 34 (that was not rejected in the Decision), namely:

connecting the central computer to a brokerage computer system to implement said acquisition of said investments;

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and new claim 52 also follows the Rehearing Decision in so far as requiring:

a first custom set of investments for a first investor to be held within a fund

(and)

a second custom set of investments for a second investor to be held within the fund

and further incorporates from dependent claim 27 (that was not rejected in the Decision), namely:

...said acquisition comprising reallocating one of said investments from one said set to another said set at current market prices and responsive to respective buy and sell signals from said first and said second computers, wherein said reallocating does not include said fund buying or selling said one investment...

See also new claims 54-55, which are directed to apparatus.

It is respectfully submitted that the amended claims distinguish over the cited art in view of the Rehearing Decision.

Applicant claims small entity status. The Commissioner is hereby authorized to charge any fees associated with the above-identified patent application or credit any overcharges to Deposit Account No. 50-0235.

Please direct all correspondence to the undersigned at the address given below.

Respectfully submitted,



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